

REMARKS

Claim Status

Claims 2, 3, 5-14 and 16-27 are pending. Claims 2, 3, 5-14, and 16-27 stand rejected under 35 U.S.C. § 112, first paragraph. Claims 21-25 stand rejected under 35 U.S.C. § 103 as allegedly being obvious over U.S. Patent No. 6,257,763 to Stolmeier et al., hereinafter “Stolmeier” in view of U.S. Patent No. 4,481,669 to Pezzana et al., hereinafter “Pezzana.” Claims 2, 3, 6-10, 12, 14, 17-20, 26, and 27 stand rejected under 35 U.S.C. § 103 as allegedly being obvious over Stolmeier in view of Pezzana and further in view of U.S. Patent No. 3,746,215 to Ausnit et al., hereinafter “Ausnit.”

Claims 26 and 27 have been amended. No new matter has been added.

Examiner Interview

While no agreement was reached, applicant appreciates the examiner interview conducted on July 13, 2004.

Rejection under 35 U.S.C. § 112

Claims 2, 3, 5-14, and 16-27 stand rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. In particular, the examiner alleges that there is no support in the drawings for the limitation that the tag is accessible from the outside of the bag.

While in the previous reply, applicant cited to Figures 7, 9, and 11 as providing support for the amendment, applicant now submits that this limitation is also supported at various other sections of the specification. For example, the application as originally filed at page 1, lines 24-26 discloses “a tag within a part of the seal which can be withdrawn and used to open a zone of the seal to permit access to the interior of the bag.” Further, page 1, lines 21-23 state that the tag “is used as the agent by which the seal can be broken.” Page 7, lines 2-3 state that “the tag 17 protrudes through the seal.” Page 7, lines 16-28 disclose:

In order to open the sealed bag the tucked-in portion of the tag is pulled up by a finger as shown in Fig. 9, with the peel seals opening. This creates a protruding loop. A ***finger can then be inserted into the loop*** of the tag to break the perforations 20. This creates two protruding flaps. When the two flaps of the

tag which are thus created are *pulled apart* the peel seal material of the tag overlaid by seal 34, and by seal 36 if present, will give, *allowing entry to the inside of the bag* through the opened tag, as shown in Fig. 10. The opening of the peel seal material gives an access hole through the top seal 34, and through the zipper seal 36 if provided, directly to the interior of the bag. The opening can then be enlarged.
(emphasis added)

Therefore, applicant submits that the specification as originally filed (at least at the portions cited above) provides support for the claim term “tag accessible from the exterior of the bag with the bag closed.” The specification as originally filed clearly discloses the functionality that fingers can be used to access the tag, pull apart two flaps of the tag, and open the bag by pulling apart the flaps of the tag. The finger clearly accesses the tag from the exterior of the bag with the bag closed because the tag flaps are used (by finger access) to facilitate the opening of the bag. Figures 7, 9, and 11 further provide support that the tag is accessible from the outside of the bag with the bag closed, as each of these figures shows the tag on the outside of the bag, thus, accessible from the outside of the bag. Therefore, applicant submits that the claim amendments have adequate support in the specification as originally filed and respectfully requests reconsideration and withdraw of the section 112 rejections.

Rejection under 35 U.S.C. § 103

Independent Claims 26 and 27

Independent claims 26 and 27, as amended, includes features that are neither disclosed nor suggested by the cited references, either taken alone or in combination, namely as represented by claim 26:

26. (Currently Amended): A plastic bag comprising:
a pair of sides defining an openable mouth along one margin of the sides;
at least one seal extending parallel to said margin; and
a tag accessible from the exterior of the bag with the bag sealed closed and located within the length of said at least one seal, *the tag being of a width to extend over only a portion of the length of the seal* and being folded in a generally M-shaped configuration in cross-section to define two outside legs and two inside legs located between the outside legs, with outside surfaces of the outside legs of the tag being sealed to the bag sides at said at least one seal, whereby the inside legs of the tag can be manually withdrawn from between the

outside legs and the outside legs can be *separated to open a zone of the at least one seal to permit access to the interior of the bag.* (emphasis added)

None of the cited references, either taken alone or in combination, discloses or suggests a tag accessible from the exterior of the bag with the bag sealed closed, the tag being of a width to extend over only a portion of the length of the seal, whereby legs of the tag can be separated to open a zone of the at least one seal to permit access to the interior of the bag, as recited by the claims.

Stolmeier does not disclose or suggest a tag *accessible* from the exterior of a bag with the bag sealed closed. In contrast, Stolmeier discloses that tamper evident seal curved region 101 is *inside* of the bag, thus, *inaccessible* with the bag sealed closed (Stolmeier at Fig. 11). Further, and as conceded by the examiner, the tamper evident seal curved region 101 does not extend over *only* a portion of the length of the seal (office action at page 4, lines 9-10).

Pezzana does not disclose or suggest a tag accessible from the exterior of a bag with the bag sealed closed nor a tag that extends over only a portion of the length of the seal. Pezzana discloses multi-layered plastic bags.

As such, the examiner relies on Ausnit. Ausnit, however, does not disclose a tag, but discloses a funnel portion sealed to the inside of the bag so that the bag's contents may be controllably released. Ausnit does not disclose or suggest that the funnel is accessible from the exterior of the exterior of the bag with the bag sealed closed. In fact, Ausnit discloses just the *opposite* – “when the rib and groove elements are closed, the inner bag or funnel portion is directed *inwardly* of the principal container.” (Ausnit at c. 3, lines 30-32). Therefore, the funnel of Ausnit is not disclosed or suggested as being accessible from the exterior of the bag with the bag sealed closed.

Moreover, Ausnit does not disclose or suggest that *legs* of the tag are *separated to open a zone of the at least one seal to permit access to the interior of the bag.* In fact, Ausnit discloses a conventional technique for opening the bag – “[b]y gripping flanges A and B, the rib and groove elements 14 and 15 may be readily opened.” (Ausnit at c. 4, lines 4-6). Further, flanges A and B do not extend over only a portion of the length of the seal nor are they folded in an M-shaped configuration (Ausnit at Fig. 1), as recited by the claims.

Accordingly, applicant submits that the cited references, either taken alone or in combination, do not disclose or suggest the features of independent claims 26 or 27. Additionally, inasmuch as dependent claims 2-3, 5-14 and 16-20 (which have also been rejected or objected to) are dependent on claim 26 or 27, these claims are patentable over the cited references, at least by virtue of their dependency. Accordingly, applicant respectfully requests reconsideration and withdrawal of the objections to and/or the rejections of claims 2, 3, 5-10, 12, 14, and 17-20 under 35 U.S.C. § 103.

Independent Claim 21 and Dependent Claim 9

Independent claim 21 and dependent claim 9 includes features that are neither disclosed nor suggested by the cited references, either taken alone or in combination, namely as represented by claim 21:

21. (Previously Presented): *Tag* material comprising an elongate strip comprising a *first layer* having an outside surface suitable to be sealed to a web of plastics material and a *second layer* having an outside surface having peel-seal properties, wherein the strip is folded about its longitudinal axis into a generally M-shaped configuration with two outer legs and two inner legs that form an inner tuck, wherein the first layer is on the outside of the M-shaped configuration and the outer legs extend beyond the tuck. (emphasis added)

Pezzana discloses multilayer *bags*. Assuming arguendo that there is some motivation or suggestion to combine Pezzana with Stolmeier, such combination would not result in a laminated *tag*, but would result in a multilayer *bag*. Moreover, both Pezzana and Stolmeier lack anything to be regarded as a *tag*. The examiner reads Stolmeier's curved region 101 of film material 100 onto the recited "tag" (Office Action at page 2). Applicant respectfully submits that Stolmeier's film material 100 is an internal tamper-evident feature and is not a "tag."

Accordingly, applicant submits that the cited references, either taken alone or in combination, do not disclose or suggest the features of independent claim 21 and dependent claim 9. Additionally, inasmuch as dependent claims 22-25 (which have also been rejected or objected to) are dependent on claim 21, these claims are patentable over the cited references, at least by virtue of their dependency. Accordingly, applicant respectfully

DOCKET NO.: THOM-0014
Application No.: 09/857,735
Office Action Dated: April 22, 2004

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116

requests reconsideration and withdrawal of the objections to and/or the rejections of claims 9 and 21-25 under 35 U.S.C. § 103.

Conclusion

For the foregoing reasons, applicant respectfully submits that the present application is now in condition for allowance. Reconsideration of the Office Action and an early Notice of Allowance are respectfully requested. In the event that the examiner cannot allow the present application for any reason, the examiner is encouraged to contact the undersigned attorney, Raymond N. Scott Jr. at (215) 564-8951, to discuss resolution of any remaining issues.

Date: July 19, 2004



Raymond N. Scott, Jr.
Attorney for Applicant
Registration No. 48,666

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439